

Title 2. California Public Employees' Retirement System

NOTICE OF PROPOSED REGULATORY ACTION

NOTICE IS HEREBY GIVEN that the Board of Administration (Board) of the California Public Employees' Retirement System (CalPERS) proposes to take the action described below in the Informative Digest after considering public comments, objections, or recommendations.

I. PROPOSED REGULATORY ACTION

In this filing, the Board proposes to amend section 599.502 entitled, "Enrollment", and section 599.506 entitled, "Termination of Enrollment", in Title 2 of the California Code of Regulations. The proposed regulatory amendments would limit reimbursement to employers, employees and annuitants for retroactive deletions or cancellations of health benefits coverage. The amount of reimbursement shall not exceed those excess premiums paid for a period of up to six months prior to the date on which the action is processed and recorded pursuant to the employer's or annuitant's request for retroactive cancellation or deletion of an ineligible family member.

II. WRITTEN COMMENT PERIOD

Any person interested may submit written comments relevant to the proposed regulatory action. The written comment period closes at 5:00 pm on April 18, 2005. The Regulations Coordinator must receive all written comments by the close of the comment period. Comments may be submitted via fax at (916) 795-3379; email at the following address: marilyn_clark@calpers.ca.gov; or mail to the following address:

Marilyn Clark, Regulations Coordinator
California Public Employees' Retirement System
400 P Street, Room 1120
P.O. Box 942702
Sacramento, California 94229-2702

Telephone: (916) 795-3007

III. PUBLIC HEARING

Comments on the proposed actions will also be taken at a public hearing to be placed on the agenda of the regularly scheduled meeting of the CalPERS Health Benefits Committee:

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April 19, 2005

10:00 a.m. (or immediately following the meeting of the Benefits and
Program Administration Committee)

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400 P Street, Sacramento, California 95814

IV. ACCESS TO HEARING ROOM

The hearing room will be accessible to persons with mobility impairments, and can be made accessible to persons with hearing or vision impairments upon advance request to the Regulations Coordinator.

V. AUTHORITY AND REFERENCE

Government Code section 22794 grants the Board, "...all powers reasonably necessary to carry out the authority and responsibilities expressly granted or imposed upon it..." pursuant to the Public Employees' Medical and Health Care Act (PEMHCA).

Government Code section 22796, in pertinent part, requires the CalPERS Board to, "...adopt all necessary rules and regulations to carry out the provisions of [PEMHCA]..." including, but not limited to, "...regulations pertaining to any...matters that the board may be expressly authorized or required to provide for by rule or regulation by the provisions of [PEMHCA]." When adopting rules and regulations, section 22796 directs, "...the board shall be guided by the needs and welfare of individual employees, particular classes of employees, the state and contracting agencies, as well as prevailing practices in the field of medical and hospital care."

Government Code section 22830 allows an, "...employee or annuitant, under eligibility rules as prescribed by board regulations, (to) enroll in a health benefit plan approved or maintained by the board either as an individual or for self and family". Section 22830 also establishes enrollment in a plan as serving to authorize, "...the deduction of the contributions required under (PEMHCA) from the salary of an employee or allowance of an annuitant".

Government Code section 22842 provides that, "A change in coverage based on a change in the family status of an employee, annuitant, or family member enrolled in a health benefit plan may be requested by the employee or annuitant by filing an application within 30 days after the occurrence of the change in family status or at other times and according to conditions as may be prescribed by regulations of the board."

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Government Code section 22846 further requires, "The regulations of the board shall provide for the beginning and ending dates of coverage of employees, annuitants, and family members enrolled in a health benefit plan."

The attached amendments to sections 599.502(f)(2) and 599.506(c)(1) will implement, interpret, and make specific Government Code Sections 22830 and 22846, respectively.

VI. INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Government Code section 22830 describes the ability of the board to prescribe eligibility rules through board regulations, under which employees or annuitants may enroll, either as an individual or for self and family, in health benefit plans approved or maintained by the board.

Government Code section 22842 further provides that an employee, annuitant, or family member enrolled in a health benefit plan may request a change in coverage based on a change in the family status by filing an application within 30 days after the occurrence of the change in family status, or at other times and according to conditions as may be prescribed by regulations of the board.

Section 599.502 implements, interprets and makes specific Government Code sections 22830 and 22842 by describing the various conditions under which an eligible employee or annuitant may enroll in board-approved or maintained health plans, and may make changes to their enrollments, including the addition or deletion of family members.

The proposed amendment to section 599.502(f)(2) will limit reimbursement of employers, employees and annuitants to an amount not to exceed the excess health premiums paid for a period of up to six months when a submitted enrollment transaction results in a retroactive mandatory deletion of a family member or retroactive mandatory cancellation of coverage due to loss of eligibility.

As previously stated, Government Code section 22842 allows an employee, annuitant, or family member enrolled in a health benefit plan to request a change in coverage based on a change in the family status. Government Code section 22846 requires board regulations to provide a beginning and ending date of coverage of employees, annuitants, and family members enrolled in a health benefit plan.

Section 599.506 implements, interprets and makes specific Government Code sections 22842 and 22846 by authorizing and establishing specific termination dates for ending coverage of employees and annuitants and family members under specified circumstances and conditions. Section 599.506(c)(1) requires

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health plans to pay to the employer, employee or annuitant, "...any difference between the premium paid between the date of termination of coverage and the effective date of the change in enrollment, and that which would have been paid had the change in enrollment been effective on the date of termination of coverage...."

The proposed amendment to section 599.506(c)(1) will limit the liability of health plans contracting with CalPERS to reimburse employers, employees and annuitants to those excess premiums paid for a period of up to six months prior to submission of an enrollment transaction which results in a retroactive deletion or cancellation of coverage.

VII. EFFECT ON SMALL BUSINESS

The proposed regulatory action does not affect small business because it applies only to state and public agency participation under the PEMHCA. Additionally, the businesses which provide services under the board-approved or maintained health plans of PEMHCA do not qualify as small businesses.

VIII. DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

- A. **MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS:** The proposed regulatory action does not impose a mandate on local agencies or school districts.
- B. **COST OR SAVINGS TO ANY STATE AGENCY:** The proposed regulatory action may have undetermined long-term savings for state agency health premium contributions due to the possibility of reductions to future overall health premium costs.
- C. **COST TO ANY LOCAL AGENCY OR SCHOOL DISTRICT:** The proposed regulatory action may have undetermined long-term savings for health premium contributions for local agencies or school districts due to the possibility of reductions to future overall health premium costs.
- D. **NONDISCRETIONARY COSTS OR SAVINGS IMPOSED ON LOCAL AGENCIES:** The proposed regulatory action does not impose non-discretionary costs or savings on local agencies.
- E. **COSTS OR SAVINGS IN FEDERAL FUNDING TO THE STATE:** The proposed regulatory action does not impact any federal funding to the state.
- F. **ADVERSE ECONOMIC IMPACT:** CalPERS has made an initial determination that the proposed regulatory actions will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of business in California to compete with business in other states.

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- G. **COST IMPACT ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES:** CalPERS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- H. **IMPACT ON JOBS AND BUSINESSES WITHIN CALIFORNIA:** The proposed regulatory action will not: (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or, (3) affect the expansion of businesses currently doing business within California.
- I. **EFFECT ON HOUSING COSTS:** The proposed regulatory action has no significant effect on housing costs.

IX. CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the above mentioned hearing or during the written comment period.

X. CONTACT PERSONS

Please direct inquiries concerning the substance of the proposed regulatory action to:

Heather Martin, Regulation and Policy Area
Contract Administration
Office of Employer & Member Health Services
California Public Employees' Retirement System
P.O. Box 942714
Sacramento, California 94229-2714

Telephone: (916) 795-1590
Fax: (916) 795-1277
E-mail: heather_martin@calpers.ca.gov

Please direct requests concerning processing of this regulatory action to Marilyn Clark, Regulations Coordinator, at (916) 795-3007, or Barbara Galli, backup Regulations Coordinator, at (916) 795-4098.

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XI. AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The entire rulemaking file is available for public inspection through the Regulations Coordinator at the address shown above. To date the file consists of this notice, the proposed text of the regulation, and the Initial Statement of Reasons (ISR). A copy of the proposed text and the ISR is available at no charge upon telephone or written request to the Regulations Coordinator.

The Final Statement of Reasons can be obtained, once it has been prepared, by written request to Marilyn Clark, Regulations Coordinator, at the address shown in Section II.

For immediate access, the regulatory material regarding this action can be accessed at CalPERS' web site at www.calpers.ca.gov under "*Members; About CalPERS; Legislation, Regulations and Statutes; Regulatory Actions; Current Regulatory Actions*".

XII. AVAILABILITY OF MODIFICATIONS TO PROPOSED AMENDMENT

The Board may, on its own motion or at the recommendation of any interested person, modify the proposed amendment to the regulation after the public comment period has closed. It may amend sections 599.502 or 599.506 as modified if the changes are sufficiently related to the original text so the public could have anticipated them.

If the Board modifies its regulatory action in this manner, it will prepare a comparison of the original proposed text and the modifications for an additional public comment period of not less than 15 days prior to the date on which the Board adopts, amends or repeals the resulting regulation. A copy of the comparison text will be mailed to all persons who submitted written comments, who testified or submitted written comments at the public hearing, or asked to be kept informed as to the outcome of this regulatory action.